IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWP No. 423 of 2005

Date of Decision: 29th May, 2007

H.P. State Cooperative Bank	Petitioner
Versus	
Subhadra Bhardwaj & others	Respondents

Coram

The Hon'ble Mr. Justice Sanjay Karol,J.

Whether approved for reporting[1]? Yes.

For the petitioner: Mr.Surinder Sharma, Advocate

For the respondents: Mr.C.N.Singh, Advocate, for respondent No.1.
Mr.C.B.Singh, Dy. Advocate General, for respondent No.2.

Sanjay Karol, J. (Oral)

Petitioner has assailed the award dated 31st December, 2004 passed by H.P. Industrial Tribunal cum Labour Court, Shimla in Reference No.98 of 2004, titled as Subhadra Bhardwaj v. H.P. State Co-operative Bank Ltd., on the ground that petitioner being a Cooperative Society as such any service dispute with its employee would not fall within the purview of the provisions of Industrial Disputes Act, 1947 (hereinafter referred to as the Act).

Whether the reporters of Local Papers are allowed to see the Judgment?

Respondent No.1 was appointed as an Apprentice by petitioner. She raised a dispute with regard to claim of wages on the principle of 'equal pay' for 'equal work' as she was performing the duties of Junior Clerk. Reference was made by the State Government in accordance with the provisions of Section 10 of the Act as under:-

> "Whether the claim of wages of Smt. Subhadra Bhardwaj W/o shri Rajesh Bhardwaj, Anant Cottage, Near Sai Niketan, Sanjauli, Shimla -171 006 from the Managing Director, H.P. State Co-operative Bank, The Mall, Shimla-1, for her duties performed w.e.f. 1.9.1995 to 16.7.2001 like other Junior Clerks on the basis of the principal of equal pay for equal work, is proper and justified? If yes, to what relief & benefits Smt. Subhadra Bhardwaj is entitled to?"

Subsequently, the State Government issued corrigendum as under:-

> "In partial modification of this office notification of even No. dated 22.5.2004 the second issue may be added:
>
> "Whether the workman Smt.Subhadra Bhardwaj W/o Shri Rajesh Bhardwaj is entitled for regularization like other regular employees after completion of apprentiship in the bank."

A claim petition was filed setting out her grievance as also giving the details of her

entitlement. The Tribunal framed the following issues:-

"1. Whether the claim of wages of the petitioner Subhadra Bhardwaj from respondent for her duties performed w.e.f. 1.9.1995 to 16.7.2001 like other junior clerks on the principle of equal pay for equal work is proper and justified? OPP

2. If issue No.1 is proved in favour of petitioner, to what relief and benefits the petitioner is entitled to? OPP

3. Whether this Court has no jurisdiction to try and decide the controversy as alleged in preliminary objection No.1.? OPR

4. Whether the claim is not maintainable as alleged in Preliminary objection No.1?OPR

5. Whether the claim is not maintainable as alleged in Preliminary Objection No.2? OPR

5A. Whether petitioner workman Smt. Subhadra Bhardwaj is entitled for regularization like other regular employees after completion of apprentiship in the Bank?

6. Relief."

While deciding the issues the Tribunal held that respondent No.1 is entitled for regularization like other regular employees after completion of one year service as apprentice i.e. after 5th September, 1995 with all consequential benefits admissible to regular Clerk.

The issue with regard to Tribunal having jurisdiction keeping in view the provisions of H.P. Cooperative Societies Act, 1968 and the Rules framed thereunder was decided against the petitioner by holding that there is no specific

provision in the Act or the Rules barring the jurisdiction of the Tribunal. The claim was consequently held maintainable.

The challenge is on the ground of jurisdiction only. Learned counsel for the parties have brought to my notice the decision rendered by this Court in CWP No. 906 of 2005, titled as *The Palampur Co-operative Marketing and Consumer Federation Limited vs. State of H.P. and others,* (Decided on 9th April, 2007), wherein it has been held that Industrial Tribunal would have the authority, power and jurisdiction to entertain and decide the Reference made to it in relation to the employees of the Societies set up under the H.P. Cooperative Societies Act, 1968 and Rules framed thereunder. The issue is therefore covered by the ratio of law laid down in the said judgment.

Vide order dated 20th September, 2005 operation and execution of the award was stayed and the said interim order was confirmed vide order dated 15th December, 2006. In view of the decision of the issue in favour of respondent No.1, the interim orders stand vacated. Petitioner is directed to comply with the award in accordance with law, as early as possible.

Learned counsel for the petitioner apprehends that there are similarly situated employees, who may try to gain advantage and

benefit by relying upon the award passed by the Tribunal. It goes without saying that award passed by the Tribunal is specific to the case of respondent No.1 and cannot be treated as a precedent for others. Each case is to be decided on facts and on its own merits.

In this view of the matter, the present writ petition is disposed of accordingly.

29th May, 2007 (Sanjay Karol),
(C) Judge.